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SENATE BILL 1174 By
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HOUSE BILL 1493
By Turner (Ham)

AN ACT to amend Tennessee Code Annotated, Title 54; Title 65
and Title 67, relative to railroads.

WHEREAS, Tennessee recently ranked 19th in the nation in total number of railroad grade crossings, 18th in the nation in total number of railroad crossing injuries, and 13th in the nation in fatalities per vehicle registered; and

WHEREAS, Countless Tennesseans have lost their lives or been injured in grade crossing collisions; and

WHEREAS, Flashing lights and gates have been demonstrated to greatly reduce the risk of railroad grade crossing collisions; and

WHEREAS, Too few of the railroad grade crossings in Tennessee have flashing lights and gates; and

WHEREAS, The current statutory scheme for installing automatic warning or protective devices at railroad grade crossings relies too heavily on limited federal funds or needlessly waits until a fatality has occurred before installing life-saving warning and protective devices, jeopardizing the lives of thousands of Tennesseans daily; and

WHEREAS, This General Assembly recognizes the distinct need to prevent railroad grade crossing accidents before they occur; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-11-113, is amended by deleting such section in its entirety and substituting instead the following:

Section 65-11-113.

(a) Except as provided in subsection (b), the following procedures apply to any railroad company:

(1)

(A) Within six (6) months after the occurrence of a fatality resulting from a collision between any railroad engine or train and a vehicle or pedestrian at any unmarked railroad grade crossing, where there are regularly scheduled trains, one hundred (100) or more vehicles cross daily and it is also a regular school bus crossing, and/or upon the order of the commissioner of transportation or the commissioner's designee, the railroad company responsible for maintaining the track and right-of-way at such grade crossing shall install or cause to be installed a railroad crossing marker with automatic flashing signal lights and a bell on either side of the tracks along such street, road or highway crossing such tracks, in such a manner that approaching motorists, riders or pedestrians may be warned of the hazard and alerted to watch for an oncoming train or engine.

(B) A railroad company shall have six (6) months from the time of an order of the commissioner or the commissioner's designee in which to install or cause to be installed the automatic warning or protective devices required. If such devices are not installed and operative at the end of this period of time, and the commissioner has not granted an extension based on hardship or act of God, the speed of trains operating within one (1) mile in each direction of such crossing shall be restricted to not more than

twenty-five (25) miles per hour. This restriction shall continue until the devices are fully operational.

(2)

(A) The cost of installing such signal devices shall be borne equally by the railroad company, the state of Tennessee, and the county, or the municipality, if such signal devices are installed within the corporate limits or the metropolitan government, where applicable.

(B) Payment of the state's share shall be made as reimbursement to the railroad company of one third (1/3) of the cost of such installation, by warrant of the commissioner of finance and administration upon the state treasury, after inspection of the site and certification by the commissioner of transportation or the commissioner's designee that such signal devices have been installed in compliance with this section; provided, that the railroad company has first submitted to the commissioner of finance and administration a sworn statement of the total costs incurred by the railroad company in installing such signal devices.

(C) Payment of the municipality's or county's or metropolitan government's share of the costs shall similarly be made in accordance with the fiscal procedures of such municipality, county, or metropolitan government after receipt of a sworn statement from the railroad company of the total cost of the installations and verification of such installation by the appropriate municipal, county or metropolitan government official.

(3) If any county, municipal or metropolitan government fails or refuses to reimburse the railroad company as provided herein, the commissioner of finance and administration shall cause the necessary amount of money to be withheld from such county, municipal or metropolitan government due such county, municipal or metropolitan government from the proceeds of the state gasoline tax and reimburse the railroad company using such funds otherwise due the county, municipal or metropolitan government. The Tennessee department of transportation shall be prohibited from adopting any rules or regulations which will circumvent the purposes of this section by setting incompatible criteria for determining priorities for the installation of railroad crossing signals.

(4) In the event federal funds are available to defray the cost of such installation in whole or in part, the federal rules then applicable shall determine the allocation of the costs of such installation.

(5) Any railroad company failing to comply with the requirements of subdivisions (1)-(4) is subject to a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each day of continued violation.

(6) The department of transportation is authorized to construct protective or warning devices at or in the vicinity of any railroad crossing of a public highway owned by a county or incorporated city or town, based upon the showing of need resulting from a multidisciplinary study, whenever federal funds are available for such construction. The department is further authorized to supply a maximum of one percent (1%) of the funds required for such construction provided the county or

incorporated city or town in which the construction will be performed complies with the necessary conditions for receipt of the balance of federal matching funds for such construction.

(7) Notwithstanding any other provision of law to the contrary, the department of transportation shall construct automatic warning devices at the railroad crossing at Tipton Station Road in Southern Knox County.

(b)

(1)

(A) Any Class 1 railroad company responsible for maintaining the track and right-of-way at any unmarked railroad grade crossing over any publicly-maintained road, street or highway shall install or cause to be installed a railroad crossing marker with automatic flashing signal lights and a bell on either side of the tracks along such road, street or highway crossing such tracks, in such a manner that approaching motorists, riders or pedestrians may be warned of the hazard and alerted to watch for an oncoming train or engine if the following conditions exist at any such crossing:

(i) There are regularly scheduled trains;

(ii) One hundred (100) or more vehicles cross daily; and

(iii) It is a regular school bus crossing.

Notwithstanding the existence of any condition, the commissioner of transportation or the commissioner's designee may order an installation at any unmarked railroad grade crossing pursuant to this section.

(B) Except as provided in subdivisions (1)(C) and (1)(D), a Class 1 railroad company shall have until July 1, 2006, to install or cause to be installed the automatic warning or protective devices required pursuant to subsection (b)(1)(A). If such devices are not installed and operative at the end of this period of time, the speed of trains operating within one (1) mile in each direction of such crossing shall be restricted to not more than twenty-five (25) miles per hour. This restriction shall continue until the devices are fully operational.

(C) In the event of a commissioner's order, a Class 1 railroad company shall have six (6) months from the time of an order of the commissioner or the commissioner's designee in which to install or cause to be installed the automatic warning or protective devices required pursuant to subsection (b)(1)(A); provided that the commissioner may grant an extension of time to complete installation based on hardship or act of God. If such devices are not installed and operative at the end of this period of time, the speed of trains operating within one (1) mile in each direction of such crossing shall be restricted to not more than twenty-five (25) miles per hour. This restriction shall continue until the devices are fully operational.

(D) Prior to July 1, 2006, in the event of a fatality resulting from a collision between any Class 1 railroad engine or train and a vehicle or pedestrian at any railroad crossing required to be marked pursuant to subsection (b)(1)(A), a Class 1 railroad company shall have six (6) months from the time of the fatality in

which to install or cause to be installed the automatic warning or protective devices required pursuant to subsection (b)(1)(A); provided that the commissioner may grant an extension of time to complete installation based on hardship or act of God. If such devices are not installed and operative at the end of this period of time, the speed of trains operating within one (1) mile in each direction of such crossing shall be restricted to not more than twenty-five (25) miles per hour. This restriction shall continue until the devices are fully operational.

(2) Any Class 1 railroad company failing to comply with the requirements of subdivision (1) shall be assessed a civil penalty of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each day of continued violation.

(3) The department of transportation is authorized to construct protective or warning devices at or in the vicinity of any railroad crossing of a public highway owned by a county or incorporated city or town, based upon the showing of need resulting from a multidisciplinary study, whenever federal funds are available for such construction. The department is further authorized to supply a maximum of one percent (1%) of the funds required for such construction provided the county or incorporated city or town in which the construction will be performed complies with the necessary conditions for receipt of the balance of federal matching funds for such construction.

(4) If federal funds are available to defray the cost, in whole or in part, of any installation required pursuant to the provisions of this section, then the federal rules shall determine the allocation of the cost of such

installation. Nothing in this subsection shall be construed as delaying any installation required pursuant to the provisions of this section if federal funds are not available in the first fiscal year in which such installation is required pursuant to the provisions of this section or by July 1, 2006, whichever is later.

(5) This subsection shall not apply to rail authorities established pursuant to Title 7, Chapter 56 or Title 64, Chapter 2.

SECTION 2. This act shall take effect July 1, 2001, the public welfare requiring it.